

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

MICHAEL WALKER, individually,

Plaintiff,

v.

**Civil Action No. 3:18-cv-01523
Honorable Robert C. Chambers**

**M.H. LOVEJOY, in his individual capacity;
B.E. DONAHOE, in his individual capacity;
B.W. PAULEY, in his individual capacity;
PUTMAN COUNTY COMMISSION, a
political subdivision of the State of West
Virginia,**

Defendants.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COME NOW the Defendants, Corporal Brian E. Donohoe (“Cpl. Donohoe”) and Deputy Brandon W. Pauley (“Dep. Pauley”), by counsel Charles R. Bailey, Adam K. Strider, and the law firm of Bailey & Wyant, PLLC, and hereby move this Honorable Court for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

As stated in more detail in the contemporaneously-filed Memorandum of Law in support thereof, the officers in this case are entitled to qualified immunity against Plaintiff’s claims. First, the encounter at issue in this matter constituted a valid investigatory stop, which does not violate the Fourth Amendment. Second, the encounter was also a legal and valid exercise of a community caretaking function. Finally, even if the conduct at issue did violate the Fourth Amendment, it cannot be said to be a knowing violation of a clearly-established legal right, and qualified immunity attaches nonetheless.

WHEREFORE, based on the foregoing, Defendants Donohoe and Pauley respectfully pray this Honorable Court GRANT their Motion for Summary Judgment, and grant such other relief as the Court deems just and proper.

**BRIAN E. DONOHOE and BRANDON W.
PAULEY,
By Counsel,**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of foregoing **“DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT”** was served upon the following parties through the
Court’s Electronic Case Filing (ECF) system on this day, Friday, December 13, 2019:

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